

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	
LITIGATION)	
_____)	MDL No. 2419
)	Dkt. No 1:13-md-2419 (FDS)
THIS DOCUMENT RELATES TO:)	
)	
The cases listed in Exhibit A)	
)	
_____)	

**MOTION TO DISMISS FOR FAILURE TO COMPLY WITH TENNESSEE HEALTH
CARE LIABILITY ACT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and order of this Court,¹ Saint Thomas West Hospital, formerly known as St. Thomas Hospital (“Saint Thomas Hospital”), Saint Thomas Network, and Saint Thomas Health (collectively referred to as the “Saint Thomas Entities”) and Ascension Health Alliance and Ascension Health (collectively referred to as the “Ascension Parties”) file this Motion to Dismiss the Complaints of various MDL Plaintiffs whose cases are listed in Exhibit A. Certain Plaintiffs have failed to comply with specific statutory requirements of the Tennessee Health Care Liability Act, TENN. CODE ANN. § 29-26-101, *et. seq.* Exhibit A identifies the individual cases (“Tennessee Plaintiffs”) to which this Motion is applicable and the specific statutory requirements that the Tennessee Plaintiffs failed to meet.

¹ Order on Cases Involving Potentially Defective Service of Process or Failure to Provider Pre-suit Notice, entered 12/23/13 (Docket #723).

Filed and attached to this Motion is a Memorandum of Law that sets forth the applicable Tennessee law that mandates dismissal of these specific Complaints.

SAINT THOMAS WEST HOSPITAL,
FORMERLY KNOWN AS ST. THOMAS
HOSPITAL, SAINT THOMAS NETWORK,
SAINT THOMAS HEALTH, ASCENSION
HEALTH ALLIANCE AND ASCENSION
HEALTH

By its attorneys,

/s/ Sarah P. Kelly

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Dated: January 10, 2014

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*Appearing *Pro Hac Vice*

CERTIFICATE OF SERVICE

This certifies that a true and accurate copy of the foregoing was served on all parties of record by virtue of the Court's electronic filing system this 10th day of January, 2014

/s/ Sarah Kelly

SARAH KELLY